UNITED STATES OF AMERICA
FOR THE SOUTHERN DISTRICT OF TEXAS
McALLEN DIVISION

UNITED STATES OF AMERICA	§
	§ 7:18-cr-01691-4
VS.	§
	§
RONALDO GALLEGOS	§

MOTION FOR BRUTON SEVERANCE OR FOR ALTERNATIVE RELIEF

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendant, Ronaldo Gallegos, pursuant to Fed. R. Crim. P. 8, Fed. R. Crim. P. 14, the Sixth Amendment to the United States Constitution and other applicable rules, law and constitutional protections, hereby moves to sever the trial of Defendant from the trial of the codefendant Viola Elizabeth Garcia, and alleges:

I.

1. A trial of Defendant separate from that of the codefendant is necessary to promote a fair determination of the guilt or innocence of Defendant. A separate trial is also necessary to protect Defendant's Confrontation Clause rights as guaranteed by the Sixth Amendment to the United States Constitution.

2. According to the Government's Discovery Responses to date, the codefendant has made post-arrest statements or other statements concerning the facts relevant to the charges in this case, and have implicated Defendant. Due to the circumstances of this case, protective editing of the statements would not overcome the prejudice to Defendant.

3. Statements made by the nontestifying codefendant are not admissible against Defendant. Bruton v. U.S., 391 U.S. 123, 88 S. Ct. 1620, 20 L. Ed. 2d 476 (1968); Schneble v. State, 215 So. 2d 611 (Fla. 1968), judgment aff'd, 405 U.S. 427, 92 S. Ct. 1056, 31 L. Ed. 2d

340 (1972). A separate trial is therefore required.

4.   The law is clear that the government has three alternatives from which to elect in any case in which it seeks to introduce the post arrest statement of a codefendant who elects to proceed to trial, and which statement directly or indirectly implicates the Defendant: (1) proceed to joint trial without use of the statement of the codefendant; (2) obtain a severance of the Defendant's case, or (3) redact the statement of the codefendant so as to delete the inculpatory remarks regarding the Defendant, if same can be done without prejudicing the codefendants. See Bruton v. U.S., 391 U.S. 123, 88 S. Ct. 1620, 20 L. Ed. 2d 476 (1968).

5.   The Defendant's first request is for a severance. Defendant moves the court, however, that if the severance is denied, that this court require the Government to proceed to trial without said statement of the named codefendant. It is submitted that redaction of the codefendant's statements could not be made in a manner that would protect Defendant from prejudice at the trial of this case, and that therefore the entire statements must be excluded under Bruton.

II.

WHEREFORE, Defendant requests that this court grant his foregoing motion, sever the trial in this cause so that said Defendant obtains a trial separate from that of the codefendant, and any other codefendants who have made incriminating post-arrest statements as to Defendant, or alternatively require the Government to proceed to trial without introduction of the post-arrest statements of the codefendant(s) and that this court take all further action deemed just and proper.

Respectfully submitted,

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     /s/   Mauro Barreiro
MAURO BARREIRO
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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I, MAURO BARREIRO, hereby certify that a true and correct copy of the foregoing

document has been forwarded to the following:

Roberto Lopez for **USA**
Richard H Garcia for **Viola Elizabeth Garcia**
Patricia Ann Rigney for **Noah Antonio Solis**
Rafael de la Garza , III for **Christopher Andrade**

on this July 1, 2019.

     /s/   Mauro Barreiro
MAURO BARREIRO

CERTIFICATE OF CONSULTATION

On this July 1, 2019, I, MAURO BARREIRO, attempted to contact the following counsel

in regards the foregoing document and they were UNOPPOSED to the contents therein:

Roberto Lopez for **USA**
Richard H Garcia for **Viola Elizabeth Garcia**
Patricia Ann Rigney for **Noah Antonio Solis**
Rafael de la Garza , III for **Christopher Andrade**

     /s/   Mauro Barreiro
MAURO BARREIRO